



Philip R. Sellinger
Tel (973) 360-7910
Fax (973) 301-8410
sellingerp@gtlaw.com

November 26, 2013

VIA ECF

The Honorable P. Kevin Castel
United States District Court for the
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

**Re: *In Touch Concepts, Inc. v. Cellco P'ship*
13 Civ. 1419 (PKC)**

Dear Judge Castel:

On behalf of Defendants Cellco Partnership d/b/a Verizon Wireless ("Verizon Wireless"), Ryan Broome and Jorge Velez, I write to seek additional time for Defendants to respond to Plaintiff's Complaint. At present, the operative pleading is an 862-paragraph, 178-page Complaint, because Plaintiff In Touch Concepts, Inc., d/b/a ZCom ("ZCom") ignored the Court's direction that it submit a shorter, less prolix pleading. ZCom has refused to consent to any extension beyond the current December 2, 2013 deadline, even though it will involve no delay in the case management schedule that Your Honor recently entered. Indeed, we are prepared to serve Defendants' Rule 26(a)(1)(A) Initial Disclosures on December 5, 2013, as currently scheduled.

By way of background, Your Honor's June 4, 2013 Order granted Defendants' motion to dismiss nine of the 11 claims asserted by ZCom, leaving only two claims for fraud. The June 4 Order also directed ZCom to move for leave to amend the Complaint as to the remaining fraud claims, and to submit a proposed Second Amended Complaint for the Court's consideration. ZCom subsequently moved for reconsideration of the June 4 Order, but the Court denied that motion on November 18, 2013. Accordingly, the relevant operative pleading was not determined until November 18, making Defendants' answers to that pleading due 14 days later, on December 2. Fed. R. Civ. P. 12(a)(4)(A).

Moreover, we respectfully request a further extension on behalf of Mr. Velez. Mr. Velez left Verizon Wireless's employ on May 31, 2012, and we have been unable to locate him, nor to discuss the responsive allegations and affirmative defenses to the claims asserted against him.

GREENBERG TRAURIG, LLP ■ ATTORNEYS AT LAW ■ WWW.GTLAW.COM
MetLife Building, 200 Park Avenue ■ New York, New York 10166 ■ Tel 212.801.9200 ■ Fax 212.801.6400

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We therefore respectfully request that Verizon Wireless and Mr. Broomes have until December 16, 2013, and that Mr. Velez have until January 2, 2014, to answer the Complaint. We appreciate Your Honor's consideration of this matter, and thank the Court for its courtesies.

Respectfully submitted,

/s/ Philip R. Sellinger

PHILIP R. SELLINGER

cc: All Counsel of Record (via ECF)
Ms. Ruby J. Krajick, Clerk of Court (via ECF and first class mail)